

IN THE SUPREME COURT OF FLORIDA

INQUIRY CONCERNING A
JUDGE NO. 02-487

Supreme Court Case No.:
SC03-1171

PRE-HEARING STATEMENT

Respondent, Judge Gregory P. Holder, by counsel, files this Pre-Hearing Statement

¹, pursuant to the Order of the JQC Hearing Panel Chairman.

BACKGROUND

The Florida Judicial Qualifications Commission filed a Notice of Investigation on April 1, 2003, based on its receipt of copies of documents anonymously submitted to a military reserve officer in 2002, which in turn were submitted to the United States Air Force on January 17, 2003. The documents alleged purported plagiarism by Judge Holder in a document submitted to the Air Force's Air War College in January 1998. Because the matter was under investigation by the Air Force, Judge Holder, a Colonel in the Air Force Reserve, sought a continuance until the Air Force had completed its investigation. Although from a review of other JQC proceedings it appeared that continuances were routinely granted, the JQC denied this request. Judge Holder appeared through counsel on May 9, 2003 and denied the charges.

Although the only documents available to the JQC were unauthenticated

¹ Discovery is ongoing. Respondent reserves the right to seek to add additional witnesses and witnesses.

copies of copies, the JQC filed its Notice of Formal Charges served on him on July 16, 2003. The Charges included violations of Canons 1, 2, and 5. Judge Holder emphatically denied all of the charges against him. Judge Holder specifically denies that he violated Canons 1, 2, or 5 of the Code of Judicial Conduct.

After the Notice of Formal Charges was made public witnesses have come forward and have given sworn statements that the document attached to the Notice of Formal Charges as Exhibit “A” is not the document which Judge Holder gave these witnesses to review in early 1998. Witnesses also have come forth revealing that Judge Holder was acting as an undercover informant for the FBI investigation involving public corruption in Tampa and suggesting that the plagiarism allegation is retribution for this participation.

Neither the Air Force, nor Judge Holder, nor any person who was shown or read the AWC paper filed by Judge Holder in 1998 has retained a copy of that document – be it a hard copy or a computer copy. The Air Force officer who graded the AWC papers in the 1997-1998 academic year has given sworn testimony that he could not authenticate the purported Holder Paper (Exhibit A) as the paper submitted by Judge Holder and which the officer graded as “satisfactory.” When the grader was asked to review the purported Holder Paper (Exhibit A) in 2003, he opined that it was a “marginal” paper and that he would have graded it as such. He has testified that he has graded thousands of papers on the topic chosen by Judge Holder. Supporting the defense’s contention that it is impossible to authenticate the documents at issue, the grader has identified the purported Holder Paper as well as several other created AWC papers as being

graded by him when actually the exhibits were artificially generated.

WITNESSES to be called by Respondent include:

The Honorable James S. Moody, Jr.	character testimony
The Honorable Virginia Covington	character testimony
The Honorable Martha J. Cook	character testimony
The Honorable Emmett L. Battles	character testimony
The Honorable Williams P. Levens	character testimony
The Honorable Robert J. Simms	character testimony

John S. Vento, Esq., /Colonel, USAFR
testimony regarding the Air War College paper which Judge Holder submitted to the Air Force and which Mr. Vento reviewed at that time.

James C. Russick, Esq./ Lt Col USAFR (Retired)
testimony regarding the Air War College paper which Judge Holder submitted to the Air Force and which Mr. Vento reviewed at that time.

Col. Mary V. Perry, USAF
testimony regarding the Air War College seminars which she attended with Judge Holder, the AWC paper she wrote and submitted, and persons she may or may not have given copies of her paper.

Kenneth E. Lawson, Esq., Assistant U.S. Attorney
testimony regarding receipt of Judge Holder's AWC paper in January 1998 and review of same; review of Exhibit A and disavowal of same; disavowal of certain statements by Jeffrey Del Fuoco.

Jeffrey J. Del Fuoco, US Army (Reserve), Assistant U.S. Attorney
testimony regarding the circumstances surrounding receipt of Exhibits A and B, the location of related materials, the disposition of the exhibits from his receipt until forwarding to Jeffrey S. Downing, a colleague; testimony regarding packet of documents "discovered" in October 2003 and forwarded to Air Force and JQC.

Unnamed representative from the U.S. Attorney's Office, Tampa
testimony regarding Mr. Del Fuoco's reputation for truth and veracity.

Jeffrey S. Downing, Assistant U.S. Attorney
testimony regarding the circumstances surrounding receipt of Exhibits A and B, the location of related materials, the disposition of the exhibits from his receipt until forwarding to the Air Force; testimony regarding packet of documents received in October 2003 and forwarded to Air Force and JQC.

Patricia T. Williams and/or Walter Williams
testimony regarding printing and graphic reproduction techniques.

Detective James Bartoszak
testimony regarding Judge Holder's being a participant in undercover corruption investigation.

Detective Dolvin "Bill" Todd
testimony regarding Judge Holder's being a participant in undercover corruption investigation.

Michael S. Musial
testimony regarding computer technology, record manipulation, computer backup and record preservation.

Sylvia B. Morgan
testimony regarding witnessing Judge Holder researching and writing the AWC paper submitted to the AWC in January 1998.

Lorraine Nasco
testimony regarding Judge Holder's drafting, her typing, his editing, and the finalization of the AWC paper submitted in January 1998.

Lt. Col. William Howe, USAF
testimony regarding the AWC grading process and authentication of Exhibit A and related exhibits.

Col. John Powers, ASAF
testimony regarding substantive Air Force matters.

Col. Howard Donaldson, ASAF
testimony regarding substantive Air Force matters.

Lt. Col. Lauren Johnson-Naumann, USAF
testimony regarding matters discovered in defense of Air Force investigation.

EXHIBITS which may be introduced by Respondent include:

Exhibit 5 to Lt. Col. William O. Howe, Jr., deposition
Exhibit 6 to Lt. Col. William O. Howe, Jr., deposition
Memo to Charles Pillans from Judge Menendez (with attachments)

Deposition of Lieutenant Colonel Charles A. Howard

Deposition of Lieutenant Colonel William O. Howe, Jr.
Deposition of Colonel Gregory P. Holder
Deposition of Lorraine Nasco
Deposition of Mrs. Sylvia B. Morgan
Deposition of Mr. Michael S. Musial
Deposition of Detective James Bartoszak
Deposition of Detective Dolvin “Bill” Todd

Affidavit of Ms. Lorraine Nasco
Affidavit of Ms. Sylvia B. Morgan
Affidavit of Colonel Mary V. Perry
Affidavit of Lieutenant Colonel Dixie Morrow
Affidavit of Lieutenant Colonel Charles A. Howard
Affidavit of Colonel Glenn Spitzer
Affidavit of Lieutenant Colonel Daryl Trawick
Affidavit of Lieutenant Colonel Kirk Granier
Affidavit of Lieutenant Colonel John Odom
Affidavit of Ms. Sharon Vollrath
Affidavit of Colonel (Retired) Howard Donaldson
Affidavit of James Cusack, Esq.
Affidavit of Clifton Curry, Esq.
Affidavit of Detective James Bartoszak
Affidavit of Detective Dolvin “Bill” Todd
Affidavit of Kenneth E. Lawson, Esq.
Affidavit of John S. Vento, Esq.
Affidavit of James C. Russick, Esq.
Affidavit of Kevin C. Ambler, Major, USAFR
Affidavit of John F. Rudy, II, Esq.
Affidavit of Patricia Anderson, Esq.

I hereby certify that on December 11, 2003, Respondent's original Pre-Hearing Statement, together with a diskette containing the document in Word Perfect format, has been sent by overnight delivery for filing to the Clerk of the Court, Florida Supreme Court, 500 S. Duval Street, Tallahassee FL 32399-1927; and that duplicates of the original were served by telecopier and U.S. Mail to: JQC Special Counsel, Charles P. Pillans, III, Esq., Bedell Ditmar DeVault Pillans & Cox, P.A., The Bedell Building, 101 East Adams Street, Jacksonville, FL 333202; and to JQC General Counsel, Thomas C. MacDonald, Jr., 1904 Holly Lane, Tampa, FL 33629.

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